

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MISSOURI  
EASTERN DIVISION

UNITED STATES OF AMERICA, )  
                                  )  
Plaintiff,                   )  
                                  )  
v.                             ) No. S2 - 4:10 CR 119 CEJ  
                                  )  
LELAND BEASLEY,            )  
                                  )  
Defendant.                   )

**MOTIONS IN LIMINE**

COMES NOW, the United States of America, by and through Richard G. Callahan, United States Attorney for the Eastern District of Missouri, and Robert F. Livergood, Assistant United States Attorney for said District, requests this Court enter its order prohibiting counsel for the defense from adducing any testimony or evidence, from commenting on, or arguing any of the following:

1. The possibility of an alternate perpetrator in this case for the reason that is inadmissible unless the defense can demonstrate a direct link between the suspect and the crime. It is inadmissible if all defendant can do is rely on hearsay or cast bare suspicion on a third party. See United States v. DeNoyer, 811 F.2d 436, 440 ( 8<sup>th</sup> Cir. 1987) (Evidence of alternate perpetrator was properly excluded where the evidence was remote and speculative.).
2. Exculpatory statements of the defendant made to any witness as such testimony would be self-serving hearsay. United States v. Esparza, 291 F.3d 1052, 1054 (8<sup>th</sup> Cir. 2002) (Exculpatory statement of defendant properly excluded as hearsay).
3. Prior bad acts of a witness. Rule 404(b) prohibits the use of other crimes, wrongs, or acts

except in some circumstances but only where reasonable notice has been given. The defense has failed to provide any notice of its intention to offer prior bad acts evidence and should therefore be prohibited from doing so.

Furthermore, the Government requests that any witnesses for the defense be excluded from the courtroom during opening statements and while other witnesses are testifying.

Respectfully submitted,

RICHARD G. CALLAHAN  
United States Attorney

*s/ Robert F. Livergood*  
ROBERT F. LIVERGOOD, 22937  
Assistant United States Attorney  
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#### **CERTIFICATE OF SERVICE**

I hereby certify that on September 23, 2010, the foregoing was filed electronically with the Clerk of the Court to be served by operation of the Court's electronic filing system upon the following:

Ms. Nanci McCarthy  
Office of the Federal Public Defender  
1010 Market Street, Suite 200  
St. Louis, Missouri 63101

*s/ Robert F. Livergood*  
ROBERT F. LIVERGOOD  
Assistant United States Attorney